

The Honorable James L. Robart

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON

Joseph J. Hesketh III,
*on his behalf and on behalf of other similarly
situated persons*

Plaintiff,

v.

Total Renal Care, Inc, on its own behalf and on
behalf of other similarly situated persons,

Defendants.

Case No: 2:20-01733- JLR

DECLARATION OF CHRISTINA L HENRY
IN SUPPORT OF PLAINTIFF'S MOTION
TO FILE A SECOND AMENDED
COMPLAINT AFTER DISCOVERY

NOTE ON MOTION CALENDAR:
APRIL 23, 2021

I, Christina L Henry, state the following:

1. I am one of the co-counsel for the Plaintiff and the similarly situated Plaintiff's
Class Members ("Plaintiff") and I have personal knowledge of the matters in this declaration.

2. On behalf of the Plaintiff, I served and received written Interrogatories and
Requests for Production on Defendant Total Renal Care, Inc. ("Total") and received responses
on February 18, 2021 and after a discovery conference, received supplemental discovery
responses on March 19, 2021.

3. In response to written discovery propounded, the Defendant produced limited
document production and self-serving responses that proved inconsistent with testimony given
by various witnesses in oral depositions.

1 4. Although the Plaintiff, in an attempt to clarify the role between DaVita, Inc.
2 (“DaVita”) and Total through written discovery, the Plaintiff was unable to pin down their
3 relationship and DaVita’s involvement, in any.

4 5. Plaintiff then noticed depositions for six Rule 30 witnesses disclosed by the
5 Plaintiff in their initial disclosures for those persons with knowledge of matters relevant to
6 allegations in the Complaint.

7 6. Soon after discussing dates for the depositions, Total filed their Rule 12(c) motion
8 for judgment on the pleadings, with negotiated deposition dates scheduled for the Tuesday after
9 the Plaintiff’s response date for the motion.
10

11 7. A Rule 30(b)(6) deposition notice for DaVita, Inc. was also served on Total on
12 March 8, 2021 which counsel for Total agreed to accept but later determined had to be reserved
13 by subpoena, since DaVita, Inc. is a non-party.

14 8. Although the Plaintiff attempted to engage in deposition topics for the DaVita’s
15 Rule 30(b)(6) deposition topics earlier. Total’s counsel indicated that there would be more than
16 one deponent needed for Total and then on March 26, 2021 confirmed that objections to the Rule
17 30(b)(6) would be forthcoming.
18

19 9. Thereafter, on March 31, 2021, Total’s counsel informed the Plaintiff that they
20 would accept service for DaVita but required that a formal subpoena be served. Additionally,
21 Plaintiff’s communicated that she was open to further discussions about the Defendant’s Class,
22 suggesting further discussions about the relationship between DaVita and Total. *See Exhibit*
23 *attached as Ex. A.*
24
25
26

1 10. On April 3, 2021, after a week where the Plaintiff conducted six depositions of
2 Total employees, the Plaintiff, through co-counsel attempted to engage with Plaintiff's lead
3 counsel about the Defendants' Class. *See* Exhibit attached as Ex. B.

4 11. Thereafter, on Monday, April 5, 2021, the Plaintiff served a subpoena on DaVita,
5 Inc., and learned that Total's lead counsel would be out of the country for the week, leaving
6 Plaintiffs with no ability to discuss the issues surrounding the Defendants Class until her return.
7 *See* Exhibit attached as Ex. C.

8 12. Attached hereto as Exhibit D is the rough transcript from the Court Reporter for
9 the Deposition transcript for Carol Strong that was taken on April 1, 2020 at 3:00 pm via zoom.¹

10 13. Attached hereto as Exhibit E is the rough transcript from the Court Reporter for
11 the Deposition transcript for Toni Prockish that was taken on April 2, 2020 at 2:00 pm via zoom.

12 14. Attached hereto as Exhibit D is the rough transcript from the Court Reporter for
13 the Deposition transcript for Jennifer Bosl that was taken on March 30, 2021 at 9:00 am via
14 zoom.
15

16 15. Attached hereto as Exhibit G is the rough transcript from the Court Reporter for
17 the Deposition transcript for Shawn Zuckerman that was taken on April 1, 2020 at 9:00 am via
18 zoom.
19

20 16. Attached hereto as Exhibit H is the rough transcript from the Court Reporter for
21 the Deposition transcript for Oliver McKinstry that was taken on April 2, 2020 at 9:00 am via
22 zoom.
23

24
25
26 ¹ Note, I have contacted the Court Reporter and she has agreed to provide cover pages for the rough
deposition transcripts attached hereto to clarify the nature of the depositions. As soon as they are available, I will
provide a Praecipe for these transcripts that includes coversheets.

1 17. The Proposed Second Amended Complaint is attached hereto as Exhibit I.

2 18. A redlined version of the Proposed Second Amended Complaint is attached
3 hereto as Exhibit J.

4 I declare under penalty of perjury under the law of the State of Washington and the laws
5 of the United States that the foregoing is true and correct.

6
7 Executed this 8th day of April, 2021, at Bothell, WA.

8
9 /s/ Christina L Henry
Christina L Henry, WSBA# 31273